United Nations S/2008/188

Security Council

Distr.: General
24 March 2008
Original: English

Letter dated 18 March 2008 from the Secretary-General addressed to the President of the Security Council

Pursuant to the Security Council resolution 1031 (1995), I have the honour to convey the attached letter, dated 3 March 2008, which I received from the High Representative for the Common Foreign and Security Policy of the European Union, transmitting the report on the activities of the European Union Police Mission in Bosnia and Herzegovina covering the period from 1 July to 31 December 2007 (see annex).

I should be grateful if you would bring this letter to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

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Annex

Letter dated 3 March 2008 from the Secretary-General and High Representative of the Council of the European Union addressed to the Secretary-General

In accordance with the statement by the President of the Security Council of 12 December 2002 (S/PRST/2002/33), I attach a report on the activities of the European Union Police Mission in Bosnia and Herzegovina covering the period from 1 July to 31 December 2007. This report marks the end of the first follow-on mission.

On 19 November 2007, the Council of the European Union adopted Joint Action 2007/749/CFSP providing for a second extension of the Mission's mandate until 31 December 2009 following the invitation of the Bosnia and Herzegovina authorities to continue its activities.

Although considerable achievements have been made since the initial launch of the Mission on 1 January 2003, effective results in the fight against organized crime and in the establishment of key State law enforcement agencies such as the Border Police of the State Investigation and Protection Agency are a long-term endeavour. The recent arrests of prominent figures allegedly involved in organized crime activities represent, however, a significant breakthrough.

The adoption of the Mostar Declaration in October 2007 by the Bosnia and Herzegovina authorities will furthermore pave the way for police reform, the implementation of which has been stalled over the last three years in the absence of political agreement among the stakeholders.

Under its renewed mandate, the Mission will therefore continue to focus on a concrete operational approach while further reaching out to the judiciary and, in particular, the prosecutors. Improved cooperation between police forces and the prosecutors' offices is a critical factor in the fight against organized crime and other forms of serious crime.

The Mission will also assist the domestic authorities in the implementation of police reform, contributing in particular to the harmonization of their laws on police officials and on internal affairs.

I propose to provide the Security Council with a written update on the progress of the Mission. I should be grateful if you would transmit the enclosed report to the President of the Security Council.

(*Signed*) Javier **Solana**

Enclosure

Report of the Secretary-General and High Representative for the Common Foreign and Security Policy of the European Union on the activities of the European Union Police Mission in Bosnia and Herzegovina covering the period from 1 July to 31 December 2007

Introduction

1. The European Union Police Mission is the first operation undertaken under the European Security and Defence Policy. Initially with a three-year mandate starting on 1 January 2003, the Council decided in November 2005 to extend the Mission from 1 January 2006 to 31 December 2007 with a refocused mandate. In view of the remaining challenges, the Secretary-General/High Representative had recommended an extension of the Mission for another two years at its current strength, organization and mandate during the reporting period. With Joint Action 2007/749/CFSP of 9 November 2007, the Council decided on another extension, until 31 December 2009, in view of a possible transfer of Mission activities to community assistance after 2009. Brigadier General Vincenzo Coppola (Italy) was Head of Mission during the reporting period. The Council extended his appointment until 31 December 2008.

2. The European Union Police Mission aims through monitoring, mentoring and inspecting to establish in Bosnia and Herzegovina a sustainable, professional and multi-ethnic police service operating in accordance with European and international standards. The Mission benefits from the local political guidance and coordination of the European Union Special Representative. The Mission contributes to the stabilization and association process with the goal of setting Bosnia and Herzegovina irreversibly on track for European Union membership by strengthening the rule of law and developing an effective and accountable police service free from undue political interference.

Staffing and methodology

3. On 31 December 2007 the Mission had 421 staff (173 international police officers, 28 international civilian experts and 220 national staff). All 27 EU member States contribute to the Mission as well as six non-EU countries. The Mission takes due account of Security Council resolution 1325 (2000) on women and peace and security in all its activities, as well as the EU operational paper on practical measures for taking work forward on resolution 1325 (2000) in the context of the European Security and Defence Policy.

4. The Mission reviewed its structure and priorities in order to increase its effectiveness in assisting the Bosnia and Herzegovina police in the fight against organized crime. It also completed an assessment of organized crime as part of its regular review process.

General situation

5. On 1 July, Miroslav Lajcak took over from Christian Schwarz-Schilling as European Union Special Representative and High Representative of the international community.

6. The ruling of the International Court of Justice on the genocide in Srebrenica continued to dominate, during the summer, the political debate, in particular the demands by Bosniak politicians for a special status for that municipality. The strong engagement of the international community, including the appointment of United States Ambassador Clifford Bond as envoy of the European Union Special Representative and High Representative, contributed to reducing tensions in the Srebrenica region. On 25 June, the High Representative issued a Decision Enacting the Law on the Centre for the Srebrenica-Potocari Memorial and Cemetery for the Victims of the 1995 Genocide, which, inter alia, obligates Bosnia and Herzegovina to provide protection through the State Investigation and Protection Agency, thus removing the municipality from the exclusive competence of the Republika Srpska police. Furthermore, the Mission advised on the appointment of Bosniak Deputy Station Commanders in Srebrenica, Bratunac and Vlasenica. On 10 July, the High Representative took a decision leading to the suspension by the Republika Srpska authorities of 36 police officers under investigation by the Bosnia and Herzegovina State Prosecutor for alleged involvement in war crimes, among them the former Director of the Republika Srpska police, Dragomir Andan. Despite these developments, the Republika Srpska police, together with the State Investigation and Protection Agency, the police of the Federation, the Border Police and the police of Tuzla Canton, took all necessary measures to provide a safe environment for thousands of people who travelled to and attended the various commemoration events in the area of Srebrenica around 11 July, marking the anniversary of the tragic events. The Mission praised the Republika Srpska police and the cooperation and coordination between the different police services.

7. In September, the Special Representative/High Representative submitted to the political parties, after consultations with the Mission, his draft protocol on meeting the police reform requirements necessary for initiating and signing a Stabilization and Association Agreement, which constituted the basis for political negotiations. Five rounds of technical talks with representatives of the six Government parties (HDZ, BiH, HDZ 1990, PDP, SBiH, SDA and SNSD) and the two opposition parties (SDP and SDS) were organized and chaired by the office of the Special Representative/High Representative with the Mission in an observer capacity.

8. After several rounds of negotiations, the six main political parties eventually adopted on 28 October the Mostar Declaration on police restructuring, endorsing the three EU principles. The Declaration also included the acknowledgement that certain questions pertaining to police restructuring can only be solved in the context of broader constitutional reform. The Declaration also entailed an agreement to adopt two State laws, a law on police officials and a law on the Bosnia and Herzegovina police service. Bosnia and Herzegovina leaders subsequently agreed on 22 November on the Sarajevo action plan for police reform, which included a clear political commitment to deliver, as well as a timetable for concrete institutional steps. These were welcomed as positive developments, and the European Commission assessed that sufficient progress had been made to initial the Stabilization and Association Agreement on 4 December 2007 in Sarajevo.

9. The Council of Ministers subsequently set up a working group to draft legislation for the implementation of police reform. The working group held its first sessions on 18 and 27 December. Representatives of the Mission and the Special Representative/High Representative attended as observers and will monitor progress.

The draft legislation is expected to be submitted by the Council of Minsters for enactment by 15 February 2008.

10. This outcome was preceded by a political crisis resulting by the end of October in the resignation of the Chairman of the Council of Ministers, Nikola Spiric (SNSD), and in a stalemate in the work of the Bosnia and Herzegovina Council of Ministers. The Special Representative/High Representative engaged intensively with Bosnia and Herzegovina political actors to defuse the crisis while upholding his imposed measures of 19 October (on the efficient work of the Council of Ministers and the Bosnia and Herzegovina Parliament). This engagement led to a turnaround in the political atmosphere on 30 November, when both houses of the Bosnia and Herzegovina Parliamentary Assembly adopted amendments to their rules of procedure which met the criteria specified by the High Representative. Parallel consultations were held with Republika Srpska representatives to solve Republika Srpska concerns pertaining to the High Representative's decision on the functioning of the Council of Ministers. On 3 December, the High Representative enacted an Authentic Interpretation on the Law on Changes and Amendments to the Law of the Council of Members. The Authentic Interpretation clarified the amendments on 19 October and addressed specific concerns of Republika Srpska political authorities. The same day, the Council of Members adopted the Mostar Declaration of 28 October and the action plan on police reform of 22 November, paving the way for the initialling of the Stabilization and Association Agreement. On 11 December, the governing parties reached an agreement in Laktasi (Republika Srpska) on several outstanding political issues, including the prompt reappointment of the Council of Members with an identical composition.

Achievements during the reporting period

1. Support to the police restructuring process

11. Against the backdrop of the political process, the Mission has continued to differentiate between the police restructuring process and police reform efforts, police restructuring being the institutional process linked to the constitutional reforms, while police reform covers technical measures that may be implemented ahead of the police restructuring process. As previously indicated, the Mission was actively involved throughout the negotiation process surrounding police reform.

Harmonization and coordination within the existing structures

12. To facilitate the police restructuring process, the Mission continued to support and advise on the implementation and harmonization of the legal and regulatory framework at State, entity, cantonal and Brcko District levels. The Mission continued its engagement with senior police management and with Ministers of the Interior at all levels to improve existing police structures and legislation. Many of the recommendations step from the Mission's main priority to support the fight against major and organized crime.

13. The Mission developed concepts on the independent selection and review boards, an improved internal structure of the State Investigation and Protection Agency and, in particular, the integration of the INTERPOL Office into the Agency as the International Police Cooperation Department.

14. Since July, the Mission has promoted the development of a Bosnia and Herzegovina-wide collective agreement between police employers and trade unions. A collective agreement for all levels and in particular for the State Investigation and Protection Agency and the Border Police has been drafted by representatives of all trade unions.

15. The Mission, in coordination with the Special Representative/Office of the High Representative and EUFOR, continued to monitor and raise serious concerns about the decision of the Republika Srpska Government to establish a Public Company for the Security of Persons and Property of Republika Srpska. Following the intervention of the Head of Mission, the Republika Srpska Minister of the Interior agreed on the participation of the Mission, EUFOR and the Special Representative/Office of the High Representative in the drafting of the statute of the company. However, the Working Group established by the Republika Srpska Government could not overcome the concerns raised by the international community in particular on the role, remit and size of the company.

16. These concerns were brought to the attention of the Republika Srpska Minister of the Interior and presented by the Mission to the Bosnia and Herzegovina authorities during the European Commission reform process monitoring session on 5 July 2007. The Mission, the Special Representative/High Representative and EUFOR requested Republika Srpska to suspend this initiative until the outcome of the police restructuring process. Only then would it be possible to evaluate how such a company would fit into the security sector in Bosnia and Herzegovina. The Mission's recommendations to put on hold the Republika Srpska initiative were underpinned by findings made through a comparative analysis of the private security sector in Bosnia and Herzegovina.

2. Support to the fight against organized crime

17. The Mission's advice on the planning and conduct of investigations and operations remained focused on the 20 main "targets". At Mission level, the anti-organized crime department coordinated and tracked progress. Success and monitoring indicators include police-prosecution aspects such as the opening of indictments and the final verdict by the judiciary.

18. The Mission's work continued to be supported by the Mission-led EU Coordination Board. The Board met at least every two weeks and included representatives of the office of the Special Representative, EUFOR, the Special Department for Organized Crime of the Office of the State Prosecutor, the EU Customs and Fiscal Assistance Office, the European Commission delegation and the Office of the High Representative. The Mission-EUFOR common operational guidelines were reviewed in October 2007 and continued to be a solid and well-functioning basis for operational coordination and cooperation. Their next review is due by the end of April 2008.

19. The Mission also puts an emphasis on international police cooperation aspects, in particular by assisting the Bosnia and Herzegovina authorities in the implementation of the strategic agreement with Europol as well as other EU mechanisms.

Police-prosecution relations

20. The professional relations between police and prosecutors still need further improvement at all levels of jurisdiction. Although basic communication and cooperation problems still occur, the Mission continued to identify positive developments. An increasing number of regular contacts, working meetings and case-based consultations have been established. The Mission has noted an increase in jointly established and developed investigative strategies and operational plans as well as target-oriented investigative approaches. To date, these investigative elements have however lacked the necessary expertise on both the prosecutors' and the police side. However, with mentoring from the Mission steady improvements have been observed.

21. The key problems continue to be the lack of a clear and shared understanding about the respective roles, rights and obligations of prosecutors and police in accordance with the criminal procedure legislation. As a result, both partners lack initiative in their respective fields of investigative competencies.

22. The Mission advised improving these formal aspects of the investigations. In order to enhance the process of adaptation to the new criminal legal and procedural system, the Mission continued to promote relevant joint police/prosecutor training modules through local judicial training institutions and supported joint training initiatives.

23. The Mission organized and facilitated three police/prosecutor seminars as follow-up events to the Bosnia and Herzegovina Conference on Police/Prosecutors' Cooperation held in May 2007. The seminars consisted of selected police and prosecutorial experts focusing on general formal aspects of investigations, integrated financial investigations and special investigative measures. The Mission is working on these issues in close cooperation with the Special Representative, as foreseen in his mandate.

Police certification

24. In July, the Office of the High Representative made a presentation to the Police Steering Board on the letter dated 30 April 2007 from the President of the Security Council on de-certified police officers. The Police Steering Board subsequently released a press statement indicating its readiness to further explain the provisions of the letter to individuals denied certification by the International Police Task Force. The letter has been forwarded for direct implementation to all law enforcement agencies in the country. Copies of the letter were also distributed and discussed at the meeting of Federation police commissioners held on 26 July. On 16 August, the Federation Minister of the Interior and the Police Director forwarded model amendments to the Law on Police Officials to cantonal Ministries of the Interior and police commissioners in order to initiate legal procedures for their adoption in cantonal assemblies, while amendments are also awaiting adoption at the Federation level. These amendments should enable former police officers denied certification by the International Police Task Force to apply for vacant positions in law enforcement agencies in Bosnia and Herzegovina, under the conditions defined in the letter from the President of the Security Council.

25. At State level, the amendments are still under consideration. In Republika Srpska, the amendments were incorporated into the draft law on police officials which has still to be finalized. In Breko, the amendments were adopted.

3. Strengthening internal/external control, inspection and accountability of the police

26. Attempts at political interference in police work persisted. At several junctures the Mission had also to address demands for national balance in senior police management, while encouraging the domestic owners of the process to accept the basic principle that professional criteria should prevail in police matters.

27. In the Federation, the relations between the Minister and the Director of Police have normalized following the appointment of a new Minister. This in turn triggered the inclusion of the Federation Minister and all cantonal Ministers of the Interior in regular monthly meetings with all police commissioners.

28. Cantonal Ministers have proved themselves to be constructive partners at those meetings. The Mission recognized a need to clarify the role of ministers in the appointment, assessment and removal of police commissioners. To further strengthen accountability, the Mission launched a thorough update of the existing cantonal laws on internal affairs in partnership with local police representatives.

29. During the reporting period, the Mission's inspection teams concluded two audits relating to the storage by the police of seized weapons and seized drugs. A preliminary audit was conducted to collect and study the actual legislation regulating the matter. After this first step, a number of inspections were made in the Federation and Republika Srpska during visits to several police stations to verify how the police services are dealing with drugs and weapons after their seizure. Preliminary results show certain practical problems related to the lack of cooperation with the Courts, which fail to order the destruction of the seized items. The storage areas are often inadequate, either insecure or with weapons and ammunitions stored together.

Independent Selection and Review Board

30. On 24 July, the Working Group of the Federation Parliament's Commission for selection and appointments finalized the selection process for the Federation Independent Selection and Review Board, proposing the appointment of seven candidates (3 Bosniaks, 2 Croats, 1 Serb and 1 other). On 25 July, the Federation House of Representatives appointed the proposed candidates, and the House of Peoples followed on 26 July.

31. The Working Group fully accepted the concerns of the Mission and the Office of the High Representative about two candidates. It is encouraging that the protracted process of selection and appointment of the new Federation Independent Selection and Review Board is finally completed; however, the new Board will immediately have to deal with several highly complex and sensitive issues around the status of the current Federation Director of Police and the selection of a new Director of Police.

32. The Mission reviewed the latest version of the draft concept paper on the Independent Selection and Review Board. This version included all detailed elements of the foreseen new selection and appointment system. Mainly it suggests

modifying the role of the Board in order to grant more authority to the Minister and the Government in the appointment of the police chiefs.

33. In comparison with the current system, the draft concept paper suggests a compromise introducing a division of responsibilities between the Independent Selection and Review Board, the Minister and the Government during the different phases of the selection and the appointment process.

4. Further support to the development of the State Investigation and Protection Agency and the Border Police

34. The State Investigation and Protection Agency was established as the main authority to investigate crimes designated by the State Prosecutor. It is still a young police agency which was established in 2003. At the moment the investigation departments are understaffed, owing to the priority in staffing given to the protection department. Management posts are mainly filled, but the Agency is still short of operational investigators, which leads to operational difficulties when conducting investigations. In short, technical and legal issues often affect their capabilities and capacity.

35. The State Investigation and Protection Agency, with the assistance of the Mission and the Office of the High Representative, has managed to secure the necessary funds to go ahead with the construction of the new Mission headquarters building in 2008 and 2009. The 2008 budget request negotiated with the Ministry of Finance and Treasury has been significantly increased. It will allow the Agency to advance in its full establishment through further staffing and purchase of equipment. Funds for special purpose expenditures will also be provided to informant handling and witness protection expenditures.

36. During the period under review, the selection of a new Director and other senior officials has been marked by certain political difficulties. In September, the Mission, the Office of the High Representative and the United States Embassy agreed that the Minister of Security should be urged to request that the relevant selection commission relaunch the selection process for the Agency Director, as the first round failed to generate a sufficiently broad pool of suitable candidates. At its session on 27 December, the Bosnia and Herzegovina Council of Ministers eventually appointed, out of five eligible candidates, Mirko Lujic (former head of the Agency's Department for Operational Support, Serb) as Director.